



Setting Standards for Excellence

Senate Energy & Telecomm. Comm.

Exhibit No. 4

Date 2-19-2009

Bill No. SB 424

The Association of Electrical and Medical  
Imaging Equipment Manufacturers  
[www.nema.org](http://www.nema.org)

January 28, 2009

**RE: NEMA Support for Montana Mercury Thermostat Legislation**

**To Whom This May Concern:**

The National Electrical Manufacturers Association (NEMA) is the principal trade association representing the US electrical products industry. In 1998, three members of the NEMA residential climate controls section – Honeywell, White-Rodgers, and GE – formed the Thermostat Recycling Corporation (TRC), a nationwide non-profit designed to facilitate recycling of mercury-added thermostats. The TRC now has more than 20 corporate members and is the only national program of its kind in the US. (Please see [www.thermostat-recycle.org](http://www.thermostat-recycle.org) for more information.)

I am writing on behalf of the TRC's founding member companies to express support for thermostat legislation being crafted by Women's Voices for the Earth in cooperation with Honeywell. I have participated in some of the dialogue that took place during the development of this bill and was very encouraged by the cooperative nature of the discussions. The process led to a consensus on the key elements of the bill, which NEMA believes will create a sensible framework for enhancing thermostat collection in Montana without placing an inordinate burden on manufacturers that long ago chose to do the right thing.

I therefore respectfully ask that you consider supporting this legislation, which will have the backing of industry and key elements of the Montana environmental advocacy community. I commend WVE for their cooperative approach and willingness to work with manufacturers to balance the interests of all parties.

If you have questions or would like to discuss this issue further, I would be pleased if you would contact me at 703-841-3249, or [mar\\_kohorst@nema.org](mailto:mar_kohorst@nema.org). Thank you for your consideration.

Sincere regards,

A handwritten signature in black ink, appearing to read "Mark A. Kohorst". The signature is fluid and cursive, with a large, stylized "M" and "K".

Mark A. Kohorst  
Senior Manager, Environment, Health & Safety

Samantha Omey  
Director  
State Government Relations

**Honeywell**  
1944 E. Sky Harbor Circle  
M/S 2102-406  
Phoenix, AZ 85034  
602-365-2641 (Dir)  
602-365-2490 (Fax)  
[samantha.omey@honeywell.com](mailto:samantha.omey@honeywell.com)

February 12, 2009

**Members of the Montana State Senate:**

On behalf of Honeywell I would respectfully request your support of SB 424, an important piece of legislation establishing the Mercury-Added Thermostat Collection Act, requiring all manufacturers who sold mercury thermostats in Montana, to individually or collectively establish a program to collect and recycle out of service mercury thermostats.

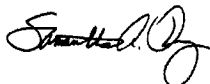
This legislation will build on the existing thermostat recycling program founded by Honeywell, General Electric and Emerson/White Rodgers in 1998 through the Thermostat Recycling Corporation (TRC). Today, the TRC has 20 manufacturers participating in the program and continues to enhance thermostat collections, education and outreach efforts to contractors and homeowners driving greater awareness and participation in the collection and recycling out-of-service mercury thermostats.

Honeywell worked with Women's Voices for the Earth representatives over the interim to develop SB 424, a consensus bill resulting in a sensible framework for enhancing thermostat collection in Montana without placing an inordinate burden on manufacturers, contractors, wholesalers or the State of Montana.

This legislation brings a cost effective and sensible approach to the important task of collecting and recycling mercury thermostats from homes and businesses in Montana. Montana will help to lead the way in environmental stewardship with SB 424 taking a model approach in the development of a comprehensive and reasonable program supported by industry and advancing the collective goal of recycling out of service mercury thermostats in Montana. I respectfully request your support of this important legislation.

If you have any questions, please call me at 602-327-0952.

Regards,



Samantha A. Omey

**A RESOLUTION OF SUPPORT FOR LC0063  
THE "MERCURY THERMOSTAT COLLECTION ACT"  
(for 2009 MONTANA LEGISLATIVE SESSION)**

WHEREAS, mercury that is released into the environment can accumulate in aquatic ecosystems, where it is transformed into methyl mercury, the most toxic form of mercury; and,

WHEREAS, methyl mercury bioaccumulates and biomagnifies in fish and exposes humans when fish are consumed; and,

WHEREAS, mercury has been found at elevated levels in fish in many water bodies in Montana, including lakes and streams in Missoula County, and some of these levels exceed levels at which consumption limitations are advised; and,

WHEREAS, mercury is a potent neurotoxin which has been found to cause neurological and developmental problems, especially in fetuses and young children; and,

WHEREAS, the CDC estimates that 300,000 to 600,000 babies are born in the U. S. each year with mercury levels elevated enough to cause lowered IQ in later life; and,

WHEREAS, mercury thermostats contain an average of 4 grams of mercury each, and the total amount of mercury sold in thermostats annually in the U.S. is approximately 15 tons (2004) representing about 13% of the mercury used in all products; and,

WHEREAS, an industry-sponsored program to collect and recycle mercury thermostats is available in the U.S.,

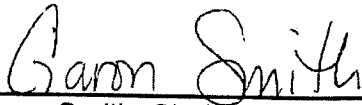
WHEREAS, this bill would provide a convenient way for individuals and businesses to safely dispose of mercury thermostats, and promote the dissemination of information about proper disposal; and,

WHEREAS, this bill would reduce the disposal of mercury thermostats in landfills and the release of mercury to the environment; and,

WHEREAS these benefits would be effected at reasonable cost to businesses and manufacturers,

NOW THEREFORE, BE IT RESOLVED THAT THE MISSOULA WATER QUALITY DISTRICT BOARD SUPPORTS LC0063, THE "MERCURY THERMOSTAT COLLECTION ACT"

Dated this 18th day of December, 2008



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Garon Smith, Chairman

# **Missoula Area Central Labor Council**

**Granite, Mineral, Missoula, Ravalli Counties**

*Affiliated with the American Federation of Labor and Congress of Industrial Organizations*

**208 East Main Street ♦ P.O. Box 8122 ♦ Missoula, Montana 59807**

January 14, 2009

To Whom It May Concern:

The Missoula Area Central Labor Council (MACLC) supports the controlled disposal of mercury thermostats designed to reduce mercury pollution, and has endorsed the bill LC0063 that seeks to accomplish the same.

The common sense approach that this bill takes by establishing a collection program for mercury thermostats is a responsible approach to reduce mercury pollution in our waters.

The MACLC encourages the Montana Legislature to pass this legislation. We believe this act will help protect Montanan's from the harmful effects of mercury pollution and serve to protect Montana's environment from this dangerous toxin.

Sincerely

s/Mark Anderlik, President MACLC

Members of the Montana State Senate  
Montana Senate  
PO Box 200500  
Helena, MT 59620-0500

Members of the Montana House of Representatives  
Montana House of Representatives  
PO Box 200400  
Helena, MT 59620-0400

February 19, 2009

Dear Members of the 61st Montana State Legislature,

We, the undersigned—a diverse constituency representing the interests of businesses, industry, hunters and anglers, labor unions, environmental organizations, health care providers, and women and children—wish to ask for your support of **SB 424**, which was developed in conjunction with Honeywell, one of the largest manufacturers of thermostats in the United States, to reduce mercury pollution associated with the disposal of mercury-added thermostats.

Mercury thermostats represent the largest amount of mercury used in ordinary household products. Mercury-added thermostats alone contribute 6-8 tons of the solid waste releases of mercury in the United States. **Of the 63 million mercury-containing thermostats in use, 2-3 million are disposed of each year, but only 4% are recycled.** This bill will help to protect public health by establishing a collection program for these thermostats, thereby diverting hundreds of pounds of mercury from entering our Montana environment. Specifically, SB 424 will:

- Ensure proper disposal through a manufacturer designed program that will require manufacturers of mercury-containing thermostats sold in Montana to establish a collection and recycling program
- Encourage the return of mercury-added thermostats by developing educational materials for use in outreach to contractors, service technicians and homeowners
- Provide valuable data to the DEQ that will include number of thermostats collected, estimated amount of total mercury collected, evaluation of the effectiveness of the program, and accounting of administrative costs
- Establish thermostat collection sites at wholesale locations. Wholesalers that do not act as a collection site will be unable to sell thermostats in the state
- Encourage contractors who install heating, ventilation, and air conditioning components to dispose of mercury thermostats at a recycling collection center
- Discontinue the sale of mercury-containing thermostats

**SB 424 will protect public health.** Mercury is a persistent, bioaccumulative toxin and a potent neurotoxin. Health effects in children exposed to mercury include neurological disorders such as learning disabilities, developmental retardation and memory and vision impairment. Mercury is passed from a mother to a developing child in the womb or through breastfeeding. In adults, mercury exposure can cause fatigue, joint pain and mental instability; high levels of exposure can damage the heart, nervous system or kidneys. The primary source of human exposure is through the consumption of mercury-contaminated fish.

One in 6 women in the United States has high enough levels of mercury in their blood to put their infants at risk for neurological disorders. Native American populations are especially vulnerable to mercury exposure because, on average, they have higher rates of fish consumption.

SB 424 is a common sense approach to reducing mercury pollution by preventing a known neurotoxin from entering Montana landfills. It is estimated that over the lifetime of a statewide collection program, hundreds of pounds of mercury in thermostats currently in use in Montana will be diverted from entering the solid waste stream.

**SB 424 will protect Montana's environment and fishing industry.** Montana has issued a statewide fish advisory in part because of high levels of mercury pollution in local fish. Once released to the environment, mercury accumulates or biomagnifies in the food chain. In other words, larger fish tend to have higher levels of mercury because they eat many smaller fish that are contaminated with the toxin. This represents a threat not only to human health, but also the state's \$300 million/year recreational fishing industry—a vital contributor to Montana's economy.

**SB 424 is a cost-effective approach to reducing mercury pollution.** A mandated thermostat collection program is a sensible, cost-effective measure that will help to protect human health and the quality of our state's precious water bodies. The bill promotes product stewardship by establishing a manufacturer designed and run program, thus the cost to government for implementation is significantly reduced. In fact, a fiscal note was not required in the majority of states where similar legislation has passed.

This bill is a fiscally responsible approach to reducing mercury pollution from the largest source of mercury in products: thermostats. As members of the Montana State Legislature, you have been called upon to support SB 424. This bill's passage will directly lead to the reduction of mercury pollution in Montana, thereby protecting human health and the integrity of our water bodies.

Sincerely,

We, the undersigned, endorse the content of this letter and encourage the State of Montana to pass SB 424. We believe this act will help protect Montana's women and children from the harmful effects of mercury pollution and serve to protect Montana's environment from this dangerous toxin.

Honeywell

National Manufacturers Electrical Association (NEMA)

Thermostat Recycling Corporation (TRC)

The Association of Montana Public Health Officials (AMPHO)

The Montana Public Health Association

Missoula County Health Board

Missoula Water Quality Advisory Council

Dr. Andrij Holian, Director, Center for Environmental Health Sciences, University of Montana

Clark Fork Coalition

Montana Carpenters Union

Ironworkers Local #14

Missoula Area Central Labor Council

Montana River Drifters

Montana Trout Unlimited

Sierra Club

Fishing Outfitters Association

SAVE (Student Advocates for Valuing the Environment)

Montana Women Vote

Montana League of Women Voters

NARAL

Planned Parenthood of Montana

Bridger Clinic, Bozeman

Women's Voices for the Earth

Testimony

SB 424

Robin Cunningham, Executive Director  
Fishing Outfitters Association of Montana, FOAM

Chairman Black, members of the committee:

The Fishing Outfitters Association of Montana urges your support for SB 424.

Other proponents have outlined the substantial dangers associated with mercury in Montanan's waters and its potential to harm persons who consume contaminated fish from a long list of lakes and reservoirs found to contain mercury. I'd like to add a personal anecdote.

I remember a client, Bev, a young mother I recently took fishing near Hebgen Lake. During a lull in the fishing, she mentioned that she was so happy with her newborn, she and her husband were looking forward to adding another child to their new family. Other topics followed, including talking about what kind of fish she might catch, how they were probably native to the area, how they thrived in our clean waters and so on. She said she wanted to keep some fish to eat with her family later that evening.

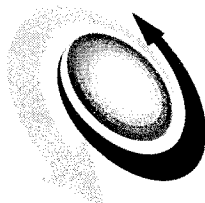
Having testified in a previous legislative session about mercury being found in local waters, including Hebgen Lake, I was hesitant to expose her to the remote possibility of contamination and suggested we try another section of the Madison river for fish to keep. Bev immediately said we had to go elsewhere, the concern showing in her face as we hiked downriver.

She related that her sister had eaten fish from a lake back east and become chronically ill with mercury poisoning. Bev was worried that she, too, might eat some 'bad' mercury-laden fish, retain the mercury, and harm any future children she might have.

This incident spurs my testimony today. My brief warning to this client changed our day and eroded her enjoyment. Even the remote chance of mercury poisoning was enough to stall our trip. I won't soon forget her story, and I hope it serves to convince you that the prohibitions, collection and disposal measures contained in SB 424 are not unnecessary burdens, but actions warranted by my young client's concerns. The risk is real, and the benefits of mercury control obvious.

I'd like to thank Senator Barkus for carrying this preventive legislation, and join the other members of our association in requesting a 'do pass' vote on SB 424.

Robin Cunningham  
FOAM



# PRODUCT STEWARDSHIP INSTITUTE

*Sustainable Solutions to Protect Our Environment*

Scott Cassel, Executive Director/CEO

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*CA Integrated Waste Management Board*

February 19, 2009

Senator Jerry Black, Chairman  
Committee on Energy and Telecommunications  
Montana Senate  
P.O. Box 200500  
Helena, MT 59620-0500

## **In Support of SB 424, Establishing the Mercury-Added Thermostat Collection Act**

Dear Chairman Black:

Thank you for the opportunity to submit testimony in support of SB 424. The Product Stewardships Institute, Inc. (PSI) submits this testimony in support of legislation mandating a product stewardship solution to the problem of mercury releases from mercury thermostat disposal.

PSI is a national non-profit membership organization comprised of 45 state governments, 70 local governments, and over 40 businesses, environmental groups, and other organizations that have pledged to work together to reduce the health and environmental impacts from consumer products. These stakeholders work cooperatively, through PSI, to develop and implement "product stewardship" solutions that share responsibility for safely managing consumer products across their entire life cycle, from design to reuse, recycling, and disposal. The Montana Department of Environmental Quality is a member of PSI.

Wall-mounted mercury-switch thermostats are a major source of mercury in Montana and throughout the United States, containing more than 10 percent of the estimated mercury reservoir. Each mercury thermostat contains an average of 4 grams of mercury, a potent neurotoxin. People become exposed to mercury by eating contaminated fish. One of the many sources of mercury deposition in the environment is mercury-containing products. These products can lead to contamination when thrown in the trash, where they might be crushed, incinerated, or otherwise mismanaged in a way to cause airborne releases, after which mercury falls back to earth in rainwater. Collecting and recycling mercury-containing products is the only way to address this problem.

PSI supports SB 424 because the current voluntary system in place since 1998 has been ineffective. In 2007, fewer than 300 mercury thermostats were collected for recycling in Montana. Using a methodology PSI has developed in collaboration with experts from states working on this issue, we

estimate that about 32,400 thermostats are removed from walls in Montana annually. The U.S. Environmental Protection Agency estimates that the percentage of retired thermostats that contain mercury could be as high as 90%. While PSI is in the process of developing a more exact estimate, no one suggests that number to be as low as 0.9%, which is the percentage of out-of-service thermostats now being collected in Montana.

Some history on the development of voluntary and regulatory approaches to mercury thermostat collection and recycling helps to place the proposed Act into context. In 1998, the three largest thermostat manufacturers created the Thermostat Recycling Corporation (TRC), which is an industry-funded and operated organization. TRC pays for the collection and recycling of mercury thermostats nationally. In 2006, as state governments across the U.S. stepped up their interest in collecting more thermostats, TRC approached PSI and sought to transition TRC's voluntary system to a legislated one that would require all thermostat manufacturers to collect and recycle mercury thermostats, thus "leveling the playing field." PSI worked with TRC, retailers, the four heating and cooling contractor and wholesaler associations, government agencies, environmental groups, and others to develop model state legislation that shared responsibility and offered a menu of approaches to state agencies.

Under the PSI model, all "brand owners" are required to set up a collection and recycling program for mercury thermostats either individually or collectively (e.g., through TRC or a similar organization). They also provide collection bins, collection data, educational materials, and in some cases an implementation plan. Contractors and wholesalers are required to serve as collection points. Retailers serve as voluntary collection locations and disseminate educational materials, but are prohibited from selling any thermostat from non-compliant manufacturers, as are wholesalers. State agencies play an oversight role. All stakeholders, including TRC, supported each of these provisions.

Two components of the model legislation that PSI consider essential, however, were supported by all stakeholders except TRC: performance goals and financial incentives. Because these issues might arise during the debate on SB 424, we address them in detail here. While we believe these elements are necessary to maximize the recycling of thermostats, we do believe that SB 424 would be a step in the right direction.

***Why are performance goals essential?*** Performance goals are essential for the same reason that manufacturers oppose them: they hold manufacturers accountable. Most states assess the performance of mercury thermostat collection programs based on a recycling rate (e.g., the number of thermostats collected compared to the number available for collection). A recycling rate places the number of thermostats collected into context. Without performance goals based on recycling rates, is it impossible to know how well a mercury thermostat collection and recycling program is working and whether a program is capturing a sufficient quantity of mercury thermostats to reduce risks to acceptable levels.

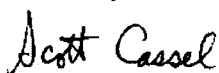
Manufacturers argue that basing performance on a recycling rate is ill-advised because no one knows the number of mercury thermostats available for collection and recycling. Instead, they want to count the number of thermostats collected and compare it to the number collected in the previous year. PSI has addressed that problem through its project to develop a methodology for calculating mercury thermostat recycling rates. The following states have indicated their support for PSI's recycling rate methodology: California, Iowa, Illinois, Massachusetts, Maine, Minnesota, New Hampshire, and Wisconsin. Only one state has thus far supported TRC's approach.

***Why are financial incentives essential?*** Manufacturers argue that they should not be held accountable for poor performance when they must rely on contractors, wholesalers, and consumers to recycle. For that reason, an increasing number of state agencies believe that financial incentives (e.g., a \$5 bounty on each mercury thermostat returned) should be included in legislation since they boost

collection rates. PSI tested the degree to which a financial incentive increased contractor participation in the TRC program. Consistent with a prior pilot program in King County, Washington, and a subsequent pilot program in Vermont, the PSI pilot found that a financial incentive can dramatically increase participation by contractors in thermostat recycling programs. While manufacturers object to the cost, all evidence suggests that financial incentives are a significant component of a successful mercury thermostat collection program.

Let me again express PSI's appreciation to the Committee for spending the time necessary to understand this complex environmental issue, and to take action toward eliminating mercury emissions. PSI would welcome the opportunity to work with the Committee, manufacturers, state officials, and other key stakeholders to discuss a comprehensive strategy for collecting mercury thermostats and improving environmental quality.

Sincerely,

A handwritten signature in black ink that reads "Scott Cassel". The signature is written in a cursive, slightly slanted style.

Scott Cassel  
Executive Director/Founder